

By

Cain

H.B. No. 231

A BILL TO BE ENTITLED

AN ACT

amending Article 7521, Revised Civil Statutes of Texas, 1925; prescribing penalties for violations of Title 128, Revised Civil Statutes of Texas, 1925, as amended, for violation of the terms and conditions of certified filings and permits; for violation of any rule, regulation or order of the Texas Water Rights Commission; providing for enforcement by suit and jurisdiction thereof; repealing Article 7522, Revised Civil Statutes of Texas, 1925, providing for cumulative effect thereof; providing severability; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. Article 7521, Revised Civil Statutes of Texas, 1925, is amended to read as follows:

"Article 7521. PENALTY.

"Section 1. PENALTY FOR CERTAIN VIOLATIONS. In addition to being subject to and liable for any forfeiture that may be provided for by law, any person violating any of the provisions of Title 128, Revised Civil Statutes of Texas, 1925, as amended, or violating any of the terms and conditions contained in certified filings or permits to appropriate water heretofore or hereafter granted under authority of law, or violating any rule, regulation or order of the Texas Water Rights Commission, promulgated thereunder, shall be subject to a penalty of not more than one hundred dollars for each and every day of such violation, and for each and every act of such violation to be recovered in any Court of competent jurisdiction in Travis County, or in a county of the residence of the Defendant, or, if there be more than one Defendant, in the county of the residence of any of them, or in the county in which the violation is alleged to have occurred, such suit, by direction of the Commission, to be instituted and conducted in the name of the State of Texas by the Attorney General, or by the county or district attorney where such suit is filed. Recovery or payment of any such penalty shall not authorize the violation of any provision of Title 128, Revised Civil Statutes of Texas, 1925, as amended, or of the terms and conditions contained in any certified filing or permit, or of any rule or regulation or order of the Commission promulgated thereunder.

"Section 2. PENALTY FOR AIDING OR ABETTING. Any person aiding or abetting any other person in the violation of Title 128, Revised Civil Statutes of Texas, 1925, as amended, or violating any of the terms and conditions contained in certified filings or permits to appropriate water heretofore or hereafter granted under

1 authority of law, or of any rule, regulation or order of the
2 Commission promulgated thereunder, shall be subject to the same
3 penalties as prescribed herein for violation thereof by any such
4 other person."

5 Sec. 2. Article 7522, Revised Civil Statutes of Texas, 1925,
6 is repealed; this Act shall be cumulative of all laws of the State
7 of Texas not inconsistent herewith or expressly repealed hereby.

8 Sec. 3. If any provision, sentence, clause, phrase or word
9 of this Act or the application thereof to any person or circum-
10 stance is held invalid, such holding shall not affect the validity
11 of the remaining portion of the Act, and the Legislature hereby
12 declares that it would have passed such remaining portions irre-
13 spective of such invalidity.

14 Sec. 4. The fact that this statute as presently worded may
15 be unconstitutional; the fact that injunction is not a satisfactory
16 remedy for violations of Commission rules; the necessity (due to
17 the critical water situation in this state) of strict enforcement
18 of the provisions of permits, certified filings, rules of the
19 Commission, and the provisions of this Title; the importance of
20 this legislation; and the crowded condition of the calendars in
21 both houses create an emergency and an imperative public necessity
22 that the Constitutional Rule requiring bills to be read on three
23 several days in each house be suspended, and this Rule is hereby
24 suspended; and that this Act take effect and be in force from and
25 after its passage, and it is so enacted.
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BILL ANALYSIS

(1) BACKGROUND

Article 7521, Revised Civil Statutes of Texas, provides for a penalty for the violation of the provisions of that chapter.

Article 7522, Revised Civil Statutes of Texas, provides that the State may recover penalties by suit brought for that purpose.

(2) PURPOSE

To prescribe penalties for violations of Title 128, Revised Civil Statutes of Texas, 1925, for violation of conditions of certified filings and permits, or for violations of regulations of the Texas Water Rights Commission, and to provide for enforcement by suit and jurisdiction thereof.

(3) SECTION ANALYSIS

Sect 1 Amends Article 7521, Revised Civil Statutes of Texas, 1925, to read as follows:

Article 7521 Provides that any person violating the provisions of Title 128, or the conditions contained in certified filings or permits, or any rule of the Texas Water Rights Commission shall be subject to a penalty of not more than \$100.00 for each and every day of violation.

Provides for jurisdiction.

Provides penalty for aiding or abetting any person in the violation of Title 128, or the terms and conditions contained in certified filings and permits, or for violation of regulations of the Texas Water Rights Commission.

Sect 2 Repeals Article 7522, Revised Civil Statutes of Texas, 1925.

Sect 3 Savings clause.

Sect 4 Emergency clause.

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FILED JAN 26 1967

JAN 30 1967 READ 1ST TIME
AND REFERRED TO COMMITTEE ON

Judiciary